

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

WILL DAVID McLEOD,

Plaintiff,

VS.

RANDALLS FOOD MARKETS

Defendant.

NO. A-09-CV-273-LY

NOTICE REGARDING [DEFENDANT'S PROPOSED] SCHEDULING ORDER

Defendant Randalls Food Markets, Inc., respectfully provides this Court with notice of the following in connection with the simultaneous filing of [Defendant's Proposed] Scheduling Order as an explanation why [Defendant's Proposed] Scheduling Order is not being filed jointly by the parties:

Pursuant to Rule 16, Federal Rules of Civil Procedure and Civil Local Rule CV-16(c), the parties are required to submit a proposed Scheduling Order.

In the interest of the abovementioned filing, counsel (Adam J. Peters) for the Defendant contacted Plaintiff Will David McLeod (*pro se*) by telephone on Friday, May 15, 2009, requesting a conference concerning dates and other information required in the Scheduling Order.

Having heard no response from Plaintiff after the above telephone communication, counsel (Adam J. Peters) for the Defendant sent a letter to Plaintiff dated May 28, 2009, again

requesting a conference concerning Scheduling Order information.¹

On June 1, 2009, counsel (Adam J. Peters) for Defendant received a letter from Plaintiff expressing a disinterest in pursuing this matter in litigation, and requesting an offer of settlement from Defendant.

On June 10, 2009, counsel (Adam J. Peters) for Defendant sent a letter to Plaintiff inviting Plaintiff to make an initial offer of settlement, and enclosing a draft proposed Scheduling Order in substantively the same form with the same suggested dates and information as [Defendant's Proposed] Scheduling Order filed herewith. Defendant's counsel notified Plaintiff that Defendant would be forced to file the Scheduling Order alone if Plaintiff failed to respond on these matters by June 15 at noon.

As of the time of this filing, counsel (Adam J. Peters) for Defendant has received no further communication from Plaintiff. Accordingly, Defendant files [Defendant's Proposed] Scheduling Order today, June 15, 2009, in Defendant's sole capacity, and not as a joint, stipulated Scheduling Order.

Dated: June 15, 2009,

Respectfully submitted,

/s/ Adam J. Peters
Eduardo F. Cuaderes Jr.
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Adam J. Peters
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Attorneys for RANDALLS FOOD MARKETS

¹ Defendant's counsel assumes that, for the purposes of this Notice, copies of the above-referenced correspondence and an affidavit supporting these statements is unnecessary; however, if the Court so requires, we will provide substantiation.

CERTIFICATE OF SERVICE

I certify that the foregoing was served to the following persons via certified mail, return receipt requested, on the 15th day of June, 2009, as follows:

Will David McLeod
14080 Nacodogches Road
San Antonio, Texas 78247

/s/ Adam J. Peters
Adam J. Peters

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